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13 Big Fish Games, Inc., and Aristocrat  
14 Leisure Limited

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**UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION**

NATHAN CAMPOS,

Plaintiff,

v.

DANIEL HELMHOLD, an individual, BIG FISH GAMES, INC., a Washington corporation, ARISTOCRAT LEISURE LIMITED, an Australian corporation, and DOES 1 THROUGH 10, inclusive,

Defendants.

**DEFENDANTS ANDREW HELMHOLD, BIG FISH GAMES, INC., AND ARISTOCRAT LEISURE LIMITED'S NOTICE OF REMOVAL OF CIVIL ACTION FROM STATE COURT**

Defendants Daniel Helmhold (“Helmhold”), Big Fish Games, Inc. (“Big Fish Games”), and Aristocrat Leisure Limited (“Aristocrat”) (collectively, “Defendants”) hereby notice removal of this civil action from the Superior Court of the State of California, County of Los Angeles, to the United States District Court for the Central District of California, Western Division. This Court has jurisdiction under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d). In support of this removal, Defendants state as follows:

## I. PROCEDURAL HISTORY

1. On April 11, 2022, plaintiff Nathan Campos (“Plaintiff”) filed this action in the Superior Court of the State of California, County of Los Angeles. Plaintiff never served Defendants with a copy of the original complaint. On April 20, 2022, Plaintiff filed a First Amended Complaint (“FAC”). A true and correct copy of the FAC, assigned Docket No. 22STCV12112, is attached to the Declaration of Lindsey Barnhart (“Barnhart Declaration” or “Barnhart Decl.”) as **Exhibit 1**.

2. Defendants accepted service of the FAC on May 10, 2022. Plaintiff served Defendants with a copy of the FAC, a Summons, a Civil Case Cover Sheet and Addendum, a Notice of Case Management Conference, and an Alternative Dispute Resolution (ADR) Information Package. A true and correct copy of the Summons is attached to the Barnhart Declaration as **Exhibit 2**. A true and correct copy of the Civil Case Cover Sheet and Addendum is attached to the Barnhart Declaration as **Exhibit 3**. A true and correct copy of the Notice of Case Management Conference is attached to the Barnhart Declaration as **Exhibit 4**. A true and correct copy of the ADR Information Package is attached to the Barnhart Declaration as **Exhibit 5**.

3. On May 13, 2022, Plaintiff and Defendants executed a joint stipulation to extend Defendants’ time to respond to the FAC until July 8, 2022. On May 17, 2022, Plaintiff filed the joint stipulation in state court. On June 1, 2022, the presiding state court judge, the Honorable Christopher K. Liu, issued an order adopting the parties’ stipulation and extending Defendants’ time to respond until July 8, 2022. A true and

1 correct copy of the state court's minute order approving the stipulation is attached to the  
 2 Barnhart Declaration as **Exhibit 6**, and a true and correct copy of the signed stipulation  
 3 and order is attached to the Barnhart Declaration as **Exhibit 7**.

4       4. Exhibits 1 through 7 constitute all of the process, pleadings, and  
 5 orders served on Defendants in this case, and are attached hereto pursuant to 28 U.S.C. §  
 6 1446(a). No substantive motions are currently pending in the state court.

7       5. The FAC concerns Big Fish Casino and Jackpot Magic Slots, two of  
 8 Big Fish Games' social casino-style games. Plaintiff alleges that certain advertisements  
 9 of virtual items available for purchase within the games are false and misleading under  
 10 two theories. Barnhart Decl. Ex. 1 ¶ 37. First, Plaintiff claims that the games "creat[e]  
 11 the illusion of" price discounts using "strikethrough graphics," when the non-discounted  
 12 prices are never offered. *Id.* Ex. 1 ¶¶ 37-38. Second, Plaintiff claims that the games  
 13 "misrepresent the existence of a limited-time sale" when "no such non-sale time period  
 14 ever exists." *Id.* Ex. 1 ¶ 48. On behalf of two putative classes of persons in the state of  
 15 California who paid money for an in-game purchase in Big Fish Casino and Jackpot  
 16 Magic Slots, respectively, within the applicable statutes of limitation, Plaintiff asserts  
 17 claims under California's Consumers Legal Remedies Act ("CLRA"), California's False  
 18 Advertising Law ("FAL"), and California's Unfair Competition Law ("UCL"), as well as  
 19 common-law claims for fraud, negligent misrepresentation, and unjust enrichment. *See*  
 20 *id.* Ex. 1 ¶¶ 60, 68-121. Plaintiff seeks a variety of remedies, including restitution,  
 21 damages, and injunctive relief. *See id.* Ex. 1 at p. 26.

## 22       II. PARTIES

23       6. Plaintiff is a resident of Los Angeles County, California. *Id.* Ex. 1 ¶  
 24 19.

25       7. Big Fish Games is a corporation incorporated under the laws of the  
 26 state of Washington. *See id.* Ex. 1 ¶ 23. It has its principal place of business in Seattle,  
 27 Washington. *Id.*

1           8. Aristocrat is an Australian corporation. *See id.* Ex. 1 ¶ 25. It has its  
 2 principal place of business in North Ryde, Australia. *Id.*

3           9. The FAC alleges that Helmhold “is a resides [sic] in or around San  
 4 Francisco, California.” *See id.* Ex. 1 ¶ 21.

5           10. The FAC also names as defendants Does 1 Through 10, but does not  
 6 allege the residency or citizenship of these defendants. *See id.* Ex. 1 p. 1.

### 7           **III. TIMELINESS OF REMOVAL**

8           11. Defendants accepted service of the FAC on May 10, 2022. *See id.* Ex.  
 9 7 p. 1.

10          12. This Notice of Removal is therefore timely pursuant to 28 U.S.C.  
 11 § 1446(b) and Rule 6(a) of the Federal Rules of Civil Procedure. *See Murphy Brothers,*  
 12 *Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999) (holding that the 30-  
 13 day removal period runs from receipt of formal service of process, including a summons).

### 14          **IV. BASIS FOR REMOVAL JURISDICTION**

15          13. The claims asserted by Plaintiff give rise to jurisdiction under the  
 16 Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d). Defendants also invoke all  
 17 other grounds for removal that exist under applicable law.

18          14. This Court has jurisdiction over this action under CAFA because this  
 19 case is (1) a proposed class action within the meaning of CAFA, in which (2) minimal  
 20 diversity exists for two independent reasons, as “any member of a class of plaintiffs is a  
 21 citizen of a State different from any defendant” and “any member of a class of plaintiffs  
 22 is a citizen of a State and any defendant is a foreign state or a citizen or subject of a  
 23 foreign state[,]” (3) “the matter in controversy exceeds the sum or value of \$5,000,000,  
 24 exclusive of interests and costs,” (4) “the primary defendants are [not] States, State  
 25 officials, or other governmental entities against whom the district court may be  
 26 foreclosed from ordering relief[,]” and (5) the “number of members of all proposed  
 27 plaintiff classes in the aggregate is [not] less than 100.” *See* 28 U.S.C. § 1332(d)(2),  
 28

1 (d)(5)(B). CAFA grants federal district courts original jurisdiction over any civil action  
 2 that meets these requirements. *See id.*

3       **A. CAFA's "class action" requirement is satisfied.**

4       15. CAFA defines a "class action" to include "any civil action filed under  
 5 rule 23 of the Federal Rules of Civil Procedure or similar State statute ... authorizing an  
 6 action to be brought by 1 or more representative persons as a class action." 28 U.S.C.  
 7 § 1332(d)(1)(B). This case qualifies as a class action removable under Section  
 8 1332(d)(1)(B). Plaintiff's FAC describes the FAC as a "Class Action Complaint" and  
 9 states that Plaintiff "brings this action individually and on behalf of all others similarly  
 10 situated." Barnhart Decl. Ex. 1 ¶¶ 1, 60.

11       16. Specifically, Plaintiff seeks to represent one class consisting of "[a]ll  
 12 persons in the state of California who, within the applicable statute of limitations, paid  
 13 money for an in-game purchase in Big Fish Casino" and another class consisting of "[a]ll  
 14 persons in the state of California who, within the applicable statute of limitations, paid  
 15 money for an in-game purchase in Jackpot Magic Slots." *Id.* Ex. 1 ¶ 60.

16       **B. CAFA's minimal diversity requirement is satisfied.**

17       17. CAFA's minimal diversity requirement is satisfied when any one of  
 18 three conditions are met. *See* 28 U.S.C. § 1332(d)(2)(A). The first condition is that "any  
 19 member of a class of plaintiffs is a citizen of a State different from any defendant[,]" and  
 20 the third condition is that "any member of a class of plaintiffs is a citizen of a State and  
 21 any defendant is a foreign state or a citizen or subject of a foreign state." *Id.*  
 22 § 1332(d)(2)(A), (C).

23       18. Here, both of these conditions are met. Plaintiff is a resident of  
 24 California and seeks to represent classes consisting of persons in the state of California.  
 25 *See* Barnhart Decl. Ex. A ¶¶ 19, 60. Defendant Big Fish Games is a citizen of a different  
 26 state (Washington), because Big Fish Games is incorporated under Washington law and  
 27 has its principal place of business in Washington. *See id.* Ex. 1 ¶ 23. Because Big Fish  
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1 Games is diverse from Plaintiff and the putative class members he seeks to represent,  
 2 CAFA's minimal diversity requirement is satisfied.

3       19. CAFA's minimal diversity requirement is also satisfied for the  
 4 independent reason that Aristocrat is a citizen of a foreign state. Aristocrat is an  
 5 Australian corporation that has its principal place of business in North Ryde, Australia.  
 6 *See id.* Ex. 1 ¶ 25.

7       **C. CAFA's amount-in-controversy requirement is satisfied.**

8       20. CAFA jurisdiction requires that "the matter in controversy exceed[]  
 9 the sum or value of \$5,000,000, exclusive of interest and costs[.]" 28 U.S.C. §  
 10 1332(d)(2). "In any class action, the claims of the individual class members shall be  
 11 aggregated to determine whether the matter in controversy" meets the \$5,000,000  
 12 threshold. *Id.* § 1332(d)(6).

13       21. A notice of removal "need include only a plausible allegation that the  
 14 amount in controversy exceeds the jurisdictional threshold[,] not an evidentiary  
 15 submission. *See Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014);  
 16 *see also Greene v. Harley-Davidson, Inc.*, 965 F.3d 767, 772 (9th Cir. 2020) (noting that  
 17 defendants need only "plausibly show that it is reasonably possible that the potential  
 18 liability exceeds \$5 million" and that amount in controversy "does not mean likely or  
 19 probable liability; rather, it refers to possible liability").

20       22. Plaintiff seeks damages and/or restitution for each class member to  
 21 "restore th[e] money" Defendants allegedly obtained and states that Plaintiff and class  
 22 members would not have purchased items absent Plaintiff's allegedly deceptive  
 23 representations. *See* Barnhart Decl. Ex. 1 ¶¶ 85-86. Plaintiff also seeks to compel  
 24 Defendants to "disgorge in a common fund for the benefit of Plaintiff and member [sic]  
 25 of the Classes all wrongful or inequitable proceeds of their conduct." *Id.* Ex. 1 ¶ 121.

26       23. Using data and records that Big Fish Games maintains in the normal  
 27 course of business, Big Fish Games has reviewed user purchases of in-game items in Big  
 28

1 Fish Casino and Jackpot Magic Slots and determined that well over \$5 million was spent  
 2 by users in the state of California during the relevant time period.

3       24. If the putative class is awarded the damages and restitution sought in  
 4 the FAC, the amount awarded would be well in excess of \$5 million.

5       25. In addition, the FAC seeks attorneys' fees. *See id.* Ex. 1 at p. 26.  
 6 Such fees are included in any amount-in-controversy analysis. *See Guglielmino v.*  
 7 *McKee Foods Corp.*, 506 F.3d 696, 700 (9th Cir. 2007).

8       26. For the reasons set forth above, the relief sought in the FAC places  
 9 more than \$5,000,000 in controversy, exclusive of interest and costs. Thus, CAFA's  
 10 amount-in-controversy requirement is satisfied. *See Dart*, 574 U.S. at 88.

11           **D. CAFA's governmental entity requirement is satisfied.**

12       27. This is not an action in which "the primary defendants are States,  
 13 State officials, or other governmental entities against whom the district court may be  
 14 foreclosed from ordering relief." 28 U.S.C. § 1332(d)(5)(B). Plaintiff alleges that Big  
 15 Fish Games is a Washington corporation and a developer of "Social Casino" games.  
 16 Barnhart Decl. Ex. 1 ¶¶ 2, 23. Aristocrat is an Australian corporation that is a "gambling  
 17 machine manufacturer and the parent company of Big Fish Games." *Id.* Ex. 1 ¶¶ 7, 25.  
 18 As such, none of the primary defendants are parties that fall within the category created  
 19 by 28 U.S.C. § 1332(d)(5)(B).

20           **E. CAFA's numerosity requirement is satisfied.**

21       28. This is not an action in which the "number of members of all  
 22 proposed plaintiff classes in the aggregate is less than 100." 28 U.S.C. § 1332(d)(5)(B).  
 23 Plaintiff purports to bring this action on behalf of all consumers who paid money for an  
 24 in-game purchase in Big Fish Casino and Jackpot Magic Slots within the applicable  
 25 statutes of limitations. *See* Barnhart Decl. Ex. 1 ¶ 60. Plaintiff estimates that both  
 26 classes "number in the thousands." *Id.* Ex. 1 ¶ 63. As such, the size of the putative class  
 27 in this case exceeds the numerosity requirements imposed by 28 U.S.C. § 1332(d)(5)(B).

1           **F. All of CAFA's requirements are satisfied.**

2           29. For the foregoing reasons, this Court has original jurisdiction over this  
3 action pursuant to 28 U.S.C. § 1332(d), and this action is removable pursuant to 28  
4 U.S.C. §§ 1441, 1453.

5           30. The recitation of the allegations and requests for relief above is not a  
6 concession that Plaintiff's allegations or legal theories have merit. Defendants reserve  
7 the right to assert all applicable defenses in this matter and deny that Plaintiff (and/or the  
8 putative class) is in fact entitled to any relief.

9           **V. REMOVAL TO THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN  
10 DIVISION, IS PROPER**

11           31. Removal to the Central District of California, Western Division, is  
12 proper because it is the district within which the state action is pending. *See* 28 U.S.C.  
13 § 1446(a).

14           **VI. NOTICE TO STATE COURT AND PLAINTIFF**

15           32. Counsel for Defendants certify that, pursuant to 28 U.S.C. § 1446(d),  
16 copies of this Notice of Removal will be filed with the Clerk of the Superior Court of the  
17 State of California, County of Los Angeles, and served upon counsel for plaintiff  
18 promptly.

19           33. WHEREFORE, the case now pending in the Superior Court of the  
20 State of California, County of Los Angeles, No. 22STCV12112, is hereby removed to the  
21 United States District Court for the Central District of California pursuant to 28 U.S.C.  
22 §§ 1441, 1453.

DATED: June 9, 2022

By: /s/ Emily Johnson Henn

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